



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,016	03/23/2004	Urbain Alfred von der Embse		2006

7590  
Urbain A. von der Embse  
7323 W. 85th St.  
Westchester, CA 90045-2444

01/21/2009

EXAMINER

VLAHOS, SOPHIA

ART UNIT

PAPER NUMBER

2611

MAIL DATE

DELIVERY MODE

01/21/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/806,016

**Applicant(s)**VON DER EMBSE, URBAIN  
ALFRED**Examiner**

SOPHIA VLAHOS

**Art Unit**

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Priority***

1. In the amended specification received on 04/04/08, Applicant has claimed the instant application is a continuation in part of application 09/826,118 filed on 01/09/2001, application 09/526,117 filed on 01/09/200, and application 10/266,257 filed on 10/08/2002. However, in the Utility Patent Application Transmittal form received on 03/23/2004, the instant application does not claim a CIP status.

#### ***Oath/Declaration***

2. Applicant is required to submit a substitute declaration or oath to correct the deficiencies set forth: The oath received on 3/23/04 does not claim priority (as a CIP) from application with serial numbers: 09/826,118, 09/526,117 and 10/266,257.

#### ***Drawings***

3. The drawings (replacement drawings for Figures 1-9) were received on 04/04/08. These drawings are acceptable.

#### ***Specification***

4. The specification received on 04/04/08 has been made of record.  
This disclosure is objected to because of the following informalities:

The first paragraph of the specification recites: "This patent apolicaiton is a continuation in part of...", should be "This patent application is a continuation in part of...", and in the same paragraph "09/526.117" should be "09/526,117".

Throughout the specification, Applicant refers to references by using [X], where x is a number, but the disclosure does not include a page with these references (as in the previous specification, page 42 which was received on 3/23/04).

The abstract received on 04/04/08 is acceptable and has been made of record.

#### ***Information Disclosure Statement***

5. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-3 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language.

Method claim 1 for example, recites multiple steps of "using" are operational steps and not active and positive steps that define a process.

Claim 1, line 27, recites: "..., and which can include...", and line 2 (on page 2 of the claims) also recites "...and which can include..." the "can" language is indefinite.

Method claims 2, recites the steps of "using" (on page 2), "partitioning" (on page 3) again these steps are operational steps and not active and positive steps that define a process. Lines 13-14, 19-21 recite: ", and spreading and implementing fast encoding and decoding algorithms...." ; also are also not active and positive steps.

Method claim 3, recites the steps of "using MS-CDMA..." , "implementing..." (in lines 19-20) these steps are not active and positive steps that define a process.

8. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

In general, claims 1-3 recite a series of steps which are not functionally connected among them, in order to define a process. Instead the claims include independent and stand-alone steps, which as a whole do not defined a process.

Claim 1, for example recites the steps of "using complex extensions of the Wavelet concept..." "...using a single multi-resolution complex Wavelet implementation..." "...using a multi-resolution complex Wavelet implementation...", these steps are stand-alone steps and there is no connection among these steps.

Claim 1 also recites the steps of : "using new orthogonal OWDMA filters and filter banks...", "using implementations for orthogonal OWDMA filters and filter banks...", "using a mother multi-resolution Wavelet at dc..." These steps are stand-alone steps with no connection among them.

Claim 2 recites the stand-alone steps of "using" on page 2 of the claim.

Claim 3 recites the stand-alone steps of "using MS-CDMA...", "implementing fast...", "using a 2 scale...", "using a Kronecker...", "using an algebraic field factorization..." and "implementing....".

**Conclusion**

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SOPHIA VLAHOS whose telephone number is (571)272-5507. The examiner can normally be reached on MTWRF 8:30-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammed Ghayour can be reached on 571 272 3021. The fax phone

Art Unit: 2611

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SOPHIA VLAHOS/  
Examiner, Art Unit 2611  
1/12/2009

/Mohammad H Ghayour/  
Supervisory Patent Examiner, Art Unit 2611